

UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND

METROPOLITAN LIFE INSURANCE
COMPANY

Plaintiff

v.

CA 07-427 ML

PAUL M. DRAINVILLE, JR.,
STEPHANIE M. DRAINVILLE,
and LAURA DRAINVILLE,
Defendants

PAUL M. DRAINVILLE, JR.,
STEPHANIE M. DRAINVILLE,
Cross-Claim Plaintiffs

v.

LAURA DRAINVILLE
Cross-Claim Defendants

PAUL M. DRAINVILLE, JR.,
and STEPHANIE M. DRAINVILLE,
Third Party Plaintiffs

v.

THE ESTATE OF PAUL M. DRAINVILLE,
SR., by and through its EXECUTRIX,
LAURA DRAINVILLE
Third Party Defendant

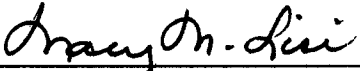
MEMORANDUM AND ORDER

This matter is before the Court on a Report and Recommendation issued by Magistrate Judge Martin on March 31, 2009 and a Motion to Dismiss filed by Cross-Claimant Laura Drainville on April 27, 2009 (Docket #51). For the reasons set forth below, the Court adopts the Report and Recommendation in its entirety and DENIES Cross-Claimant's Motion to Dismiss.

No objection has been filed to the Report and Recommendation. The Court, therefore, adopts the recommended disposition and hereby DENIES the Motion to Dismiss (Docket #46) with one exception: Counts II and III of the cross-claim are dismissed and Cross-Claim Plaintiffs may amend those claims in accordance with the Report and Recommendation. Any such amendment shall be filed within 10 days of the date of this Order.

Cross-Claim Defendant's Motion to Dismiss (Docket #51) is hereby dismissed on the Court's Motion. The Motion to Dismiss is premature because it is based on Cross-Claim Defendant's misunderstanding that the Report and Recommendation disposed of their previous Motion. It does not; pursuant to 28 U.S.C. § 636(b)(1)(B), it simply recommends a disposition.

SO ORDERED:



Mary M. Lisi
Chief United States District Judge
May 4, 2009